IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Crl.MC.No. 1196 of 2007()

CC.108/2006 of MUNSIFF MAGISTRATECOURT, , IRINJALAKKUDA

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PETITIONER/ACCUSED:

K.N.JAIN, S/O.NANAPPAN,
KOYIKKAL HOUSE, THURUTHIPURAM DESOM,
MOOTHAKUNNAM P.O.,PRESENTLY WORKING AT
DUBAI, P.B.NO.3627,DUBAI, UAE.

BY ADV. SRI.V.M.KRISHNAKUMAR
SMT.P.R.REENA

RESPONDENT/COMPLAINANT&STATE:

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1. SHYAL, S/O.BHAKSARAN,
CHERYIAMPADATH HOUSE,
KOOLIMUTTAM VILLAGE,KODUNGALLUR TALUK.

2. STATE OF KERALA, REP.BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1196 of 2007

Dated this the 13th day of April 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. According to the petitioner, he has not received any notice of summons from the court. But he finds himself in the unfortunate predicament of a warrant of arrest issued by the learned Magistrate chasing him. The petitioner now wants to surrender before the learned Magistrate. The learned counsel for the petitioner submits that the petitioner apprehends that his application for bail may not be considered on merits, in accordance with law and expeditiously by the learned Magistrate. He, therefore, prays that the directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before

the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007